



PATENT  
Customer No. 22,852  
Attorney Docket No. 05725.1030

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: )  
)  
K. CHRISTOPHIDES-LORDI et al. ) Group Art Unit: 1617  
)  
Application No.: 10/080,066 ) Examiner: E. Webman  
)  
Filed: February 22, 2002 )  
) Confirmation No.: 8578  
For: **METHODS FOR MODIFYING THE** )  
**APPEARANCE OF A** )  
**SUBSTRATE** )

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE TO RESTRICTION REQUIREMENT**

In the Office Action mailed July 16, 2004, the period of response having been extended one month to September 16, 2004, by the accompanying petition and fee, the Examiner required election under 35 U.S.C. § 121.

Specifically, the Examiner asserted that the application "contains claims directed to the following patentably distinct species of the claimed invention: a method of modifying the appearance of a substrate, a method for reducing the appearance of dark circles around the eyes, a method for reducing coetaneous signs of aging, a method of treating lily or combination skin, a method for reducing the appearance of wrinkles, a method for increasing the matte effect of a composition on a substrate." See Office Action, p. 2. Accordingly, the Examiner required election of a single disclosed species, *i.e.*, a single method.

Applicants traverse the election of species requirement on the grounds that the Examiner has not shown that there would be a serious burden to examine all of the claimed species. However, to be fully responsive to the election requirement, Applicants elect, with traverse, a method of modifying the appearance of a substrate. Claims 1-30 are readable thereon.

Since a method of modifying the appearance of a substrate was chosen, the Examiner also required election of one species from each of the following three groups:

- 1) From claims 17-21, election of one "ultimate" compound. For example, if venotonic plants were elected in claim 17, one such plant was to be elected from claim 18.
- 2) From claim 22, election of a single active agent; and
- 3) From claims 27-29, election of a specific type of composition, *i.e.*, election of anhydrous, water-in-oil, or oil-in-water.

Again, Applicants traverse the election of species requirements on the grounds that the Examiner has not shown that there would be a serious burden to examine all of the claimed species. However, to be fully responsive to the election requirement, Applicants elect, with traverse:

- 1) fillers (there are no "ultimate" compound in the dependent claims),
- 2) salicylic acid derivatives, and
- 3) oil-in-water emulsions.

If the Examiner chooses to maintain the election requirement, and should the elected species be found allowable, Applicants expect the Examiner to continue to examine the full scope of the claimed subject matter to the extent necessary to determine the full scope of the patentability thereof, *i.e.*, extending the search to the

non-elected species, as is the duty of the Examiner according to M.P.E.P. § 803.02 and 35 U.S.C. § 121.

If the Examiner believes a telephone conference would be useful in resolving any outstanding issues, he is invited to call the undersigned at (202) 408-4173.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: August 24, 2004

By: 

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